**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

CLAYTON COWAN, M.D.
 	
     Plaintiff,
 	
        v.
 	
NEW JERSEY HEALTHCARE
SPECIALISTS, P.C.
      and
ENVISION PHYSICIAN SERVICES
      and
JOHN DOES 1 THROUGH 5
 	
     Defendants.
	Civ. No. 19-20485 (RMB/JS)
	
	ORDER

     THIS MATTER comes before the Court upon a February 21 phone call to Chambers from counsel for Plaintiff Clayton Cowan, M.D. (the "Plaintiff"), requesting a status update on his recently filed Motion for Default Judgment [Docket No. 6]. The motion seeks entry of default judgment against Defendants New Jersey Healthcare Specialists, P.C. ("Defendant NJ Healthcare") and Envision Physician Services ("Defendant Envision").

     Given the unusual nature of the call, the Court reviewed the Plaintiff's submissions closely to determine the seeming need for urgent action by what is well known to be an overburdened Court. The Court has serious concerns about the adequacy of service regarding not only the instant Motion, but

also Plaintiff's request for entry of default [Docket No. 5] and his underlying Complaint [Docket No. 1]. Specifically, it is not clear that Plaintiff has ever served Defendant NJ Healthcare adequately.

The Complaint alleges that Defendant NJ Healthcare "is, upon information and belief, a **Florida based company with a corporate headquarters located at 7700 W. Sunrise Blvd., Plantation, FL 33322**." Complaint at 2 (emphasis added). However, the summons Plaintiff returned as allegedly served upon Defendant NJ Healthcare [Docket No. 4] is addressed to "1A Burton Hills Boulevard, Nashville TN 37215." The Complaint does not allege any facts to indicate that serving Defendant NJ Healthcare in Tennessee would be proper. It does, however, allege that Defendant Envision Physician Services ("Defendant Envision") "is, upon information and belief, a **Tennessee based company with a business address at 1A Burton Hills Boulevard, Nashville, TN 37215**." Complaint at 2 (emphasis added). The summons Plaintiff returned as allegedly served upon Defendant Envision [Docket No. 3] is addressed to this address.

Other evidence on the docket indicates that the Plaintiff has continued to treat Defendants NJ Healthcare and Envision as cohabiting entities for purposes of service. On January 6, 2020, Plaintiff's Counsel certified [Docket No. 5-4] that Plaintiff's Request for Entry of Default was served via mail

upon Defendants NJ Healthcare and Envision at the same Nashville address. On January 16, 2020, Plaintiff's Counsel certified [Docket No. 7] that Plaintiff's Motion for Entry of Default was received via USPS certified mail by Defendants NJ Healthcare and Envision at the same Nashville address.[1]

There is no indication in the record, and the Court does not have confidence, that Plaintiff has actually served Defendant NJ Healthcare. "The court may set aside an entry of default for good cause". Fed. R. Civ. P. 55(c). A defendant who has not been served has not been provided the opportunity "to plead or otherwise defend" which must precede any entry of default. See Fed. R. Civ. P. 55(a). The Court's concerns regarding the adequacy of service in this case constitute good cause.

Therefore,

IT IS HEREBY, on this **24th** day of **February, 2020**,

ORDERED that the default entered by the Clerk of the Court as to Defendant NJ Healthcare is hereby **VACATED** for good cause, pursuant to F. R. Civ. P. 55(c); and it is further

ORDERED that, to the extent default is proper, Plaintiff may seek reconsideration of this order; and it is further

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[1] Enclosed with this certification are return receipt cards indicating that the same person signed both cards.

ORDERED that Plaintiff's Motion for Default Judgment [Docket No. 6] is hereby **DISMISSED** as premature; and it is further

ORDERED that, to the extent Plaintiff wishes to seek default judgment against Defendant Envision only, Plaintiff shall re-file such motion with sufficient detail setting forth liability as to Defendant Envision.

                        ___s/ Renée Marie Bumb___
                        RENÉE MARIE BUMB
                        UNITED STATES DISTRICT JUDGE